Ohio School Facilities Commission
July 11, 2013
William McKinley Room, Statehouse
1:30 PM

MINUTES

Acting Chair Blair called the meeting to order at 1:30 PM.

Roll Call

Members present: Acting Chair Robert Blair, Mr. Eric Bode, Steven Alexander for Representative Johnson, Representative Ramos, Senator Manning and Cindy Peters for Senator Sawyer. Chairman Timothy Keen arrived at 2:30 PM

Adoption of the April 25, 2013 Meeting Minutes

Mr. Bode moved to approve the April 25, 2013 meeting minutes.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Renewal of Lapsed Districts Scope and Budget Approval – Melanie Drerup
Resolution 13-23

Melanie Drerup presented Classroom Facilities Assistance Program renewal projects for two schools for Commission approval. Ms. Drerup stated that, pursuant to Section 3318.054 ORC, the Commission is charged with establishing the new scope, estimated basic project cost (project budget) and estimated school district portion (local share) for a lapsed project if the school district desires to seek a new conditional approval of its project. Each of these districts has requested a new conditional approval and the master facility plans have been developed by Commission staff and the local school district. The project scope and estimated costs established will be valid for one year. All seven school districts will be on the ballot this year (1 in August and 6 in November.)

School District (County)	State Share	Local Share	Total Budget
Defiance CSD (Defiance)	$44,069,423	$11,714,657	$55,784,080
Greenville CSD (Darke)	$19,498,128	$25,846,356	$45,344,484
Liberty Center LSD (Henry)	$23,385,350	$13,154,260	$36,539,610
Liberty-Benton LSD (Hancock)	$12,173,031	$14,878,150	$27,051,181
Logan Elm LSD (Pickaway)	$13,791,996	$25,613,707	$39,405,703
New Bremen LSD (Auglaize)	$6,975,168	$7,259,868	$14,235,036
Norton CSD (Summit)	$16,354,813	$15,713,448	$32,068,261

Mr. Bode moved to approve Resolution 13-23.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Fiscal Year 2014 Projects Approval - Melanie Drerup

Ms. Drerup presented the Fiscal Year 2014 projects for the Commission's conditional approval. Ms. Drerup stated that at the first Commission meeting of the fiscal year, the staff recommends new projects for Commission approval. The recommendations are based on several factors including what is affordable given approved appropriations and cash, as well as forecasts for future funding. Each project will spend money into the future; not only in Fiscal Year 2014, but into years beyond that as well. The funding for the projects presented, along with projects underway, depend on future appropriations. Ms. Drerup stated in FY13, Master Plans totaling $1.13 billion were approved. This year we are seeking approval of Master Plans for 19 school districts, totaling $1.17 billion, slightly above the amount of FY13. The average state share of the projects is 34.7 percent. Each of these district projects were developed using a comprehensive planning process which includes a 10 year enrollment projection, a building condition assessment of each of the district's classroom facilities, an enhanced environmental assessment and review of the educational adequacy and review for LEED (Leadership in Energy and Environmental Design). All of the projects are the result of partnerships with districts around the state. All have been approved by the school district boards. Upon Commission and Controlling Board approval, the districts have thirteen months to obtain the local share and maintenance funding to be able to move ahead with their project. Under the Expedited Local Partnership Program (ELPP) districts renovated or built 21 new buildings resulting in ELPP credit totaling over $394.7 million which is being leveraged in 8 projects (Colonel Crawford LSD, Lakewood CSD, Lebanon CSD, Middletown CSD, Milford EVSD, Southwest Licking LSD, Streetsboro CSD and West Muskingum.) There are five segmented projects (Austintown LSD, Covington EVSD, Fairfield CSD, Milford EVSD and Perry LSD) and most are addressing the worst building in the district. The projects include 40 school buildings of those all but 17 are new. 51 buildings will be taken out of service, plans call for 48 to be demolished and 3 to be abandoned. Average district budget is $61.7 million. Buildings being replaced are at 2/3rds guideline with exceptions noted.

Classroom Facilities Assistance Program (CFAP) and 1990 Look Back - *Resolution 13-24*

Ms. Drerup presented the Master Facilities Plans and Segment Facility Plans for fifteen school districts for the Classroom Facilities Assistance Program for Commission approval.

CFAP:

School District	County	State Share	Local Share	Total Budget
Austintown LSD – Seg. 2 Final	Mahoning	$32,360,599	$36,491,740	$68,852,339
Bryan CSD	Williams	$18,880,951	$35,064,624	$53,945,575
Colonel Crawford LSD	Crawford	$6,449,280	$14,354,848	$20,804,128
Fairfield CSD – Seg. 1	Butler	$19,011,205	$54,108,814	$73,120,019
Lakewood CSD	Cuyahoga	$50,498,862	$112,400,694	$162,899,556
Lebanon CSD	Warren	$45,109,467	$76,808,011	$121,917,478
Middletown CSD	Butler	$40,420,956	$115,044,258	$155,465,214
Milford EVSD – Seg. 1	Clermont	$25,664,664	$69,389,648	$95,054,312

Northwood LSD	Wood	$11,557,585	$21,464,087	$33,021,672
Perry LSD – Seg. 1	Allen	$7,447,978	$6,875,057	$14,323,035
Ridgedale LSD	Marion	$12,056,894	$13,596,073	$25,652,967
Southwest Licking LSD	Licking	$42,462,230	$51,898,280	$94,360,510
Streetsboro CSD	Portage	$24,047,221	$44,659,124	$68,706,345
West Muskingum LSD	Muskingum	$14,598,522	$22,833,585	$37,432,107

1990 Look Back:

School District	County	State Share	Local Share	Total Budget
Bristol LSD	Trumbull	$8,764,402	$5,147,347	$13,911,749

Mr. Bode asked for further information regarding the future funding requirements specifically the risk that we are acknowledging in counting on future money. Ms. Drerup deferred to David Chovan. Mr. Chovan responded that we are looking primarily through FY16 because that is the next capital bill cycle. We have $675 million in capital appropriations for this current biennium, which we are half way through. Our projection is really for that to continue into the next biennium, so we have worked with Director Keen and his staff to look at some of our assumptions and we are reevaluating that in light of the potential next capital bill. There are a lot of districts in the pipeline today that will be declining in the funding requirements, but on the other hand you have the districts that are going to be growing. In FY10 and FY11 we had low school district offers and therefore, that is why in FY13 we spent $315 million and that was the lowest spent since the beginning of the Commission. We are projecting in FY16 and FY17 the amount of $400 million a year. This is anticipating continued capital funding of where we are today. Eric Bode asked if the assumption that not all the 19 projects will be able to obtain their money was factored in. Mr. Chovan responded that is correct. The passage rate has been below 50 percent. In the past couple years, we have had off-cycle offers to allow those districts that are ready to move forward. A year ago the Legislature passed legislation allowing ELPP districts that have their funding and are ready to go with credit to move forward and hope to bring those to the Commission this year. There are 4 districts on the ballot for August and approximately 10-12 districts on the ballot for November. At that point we will evaluate whether we can bring more districts forward. Acting Chair Blair asked obviously with the state shares going down as we go farther down the list, the question is do we ever get through the entire list and turn around and the percentage goes up. Ms. Drerup responded that by the time that we get to the end of the list the minimum state share is 5% and so if we had the opportunity to go back and start serving again, if there was need, for those lower wealth districts we began the program with, then you would see the state share rise dramatically.

Mr. Bode moved to approve Resolution 13-24.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Classroom Facilities Assistance Program (CFAP) Lapsed - *Resolution 13-25*

Ms. Drerup presented two school districts with a lapse of one year certification for participation in the Classroom Facilities Assistance Program for Commission approval. They were both recently successful in getting their bond issue passed.

Classroom Facilities Assistance Program (CFAP) Lapsed

School District	County	State Share	Local Share	Total Budget
Carey EVSD	Wyandot	$21,761,529	$9,326,370	$31,087,899
Covington EVSD	Miami	$10,755,449	$7,788,428	$18,543,877

Mr. Bode moved to approve Resolution 13-25.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Exceptional Needs Program (ENP) - *Resolution 13-26*

Ms. Drerup presented two school districts for participation in the Exceptional Needs Program (ENP) for Commission approval. The ENP provides funding to school districts with a compelling need for immediate classroom facilities assistance. Prior to last year, this program was available only to those districts under the 75th percentile. With the knowledge that districts above the 75th percentile also have buildings with compelling needs, the 75th percentile cap was lifted pursuant to Senate Bill316 of the 129th General Assembly. In November of last year, applications were received and scored by architectural/engineering professionals; a short list of applicants was developed and on site visits were conducted. In January of this year, an evaluation Committee reviewed and ranked the shortlist and then master plans were developed for those districts prioritized by need. The two districts listed below are both above the 75th percentile.

School District	County	State Share	Local Share	Total Budget
Mathews LSD	Trumbull	$5,631,085	$24,006,202	$29,637,287
North Ridgeville CSD	Lorain	$8,976,057	$43,824,279	$52,800,336

Mr. Bode moved to approve Resolution 13-26.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Eric Bode asked if the application Process is done annually, or do we have more buildings come in. Ms. Drerup responded that we had 14 school districts apply for 29 buildings many of which were over the 75th percentile, so what the legislature did was very helpful for those districts. We are going to be sending out applications in August of this year. We feel like we know our pool of candidates and so we will get those out early hoping that we will have a longer planning period with those districts.

Eric Bode added that the labor hours that have gone into all the assessments, master planning and meeting with districts, it is no small feat to come to an agreement that everyone is comfortable with. Mr. Bode recognized the good work from the planning staff. Acting Chair Blair agreed and knows that staff has worked very hard on these things and it is very diligent work from the staff.

Future Eligibility Approval - David Chovan
Expedited Local Partnership Program (ELPP) Eligibility - *Resolution 13-27*

David Chovan presented the changes to the Commission Expedited Local Partnership Program's eligibility requirements for Commission approval. This allows school districts to fund a distinct portion of their master facility plan with local moneys prior to becoming eligible for CFAP. Once a district enters CFAP, it receives credit against its required local contribution for work completed under ELPP. By law, a district must be at least two years away from participation in CFAP to be eligible to enter ELPP. Based upon our assessment of districts that would be eligible for CFAP within two years, we have established a cutoff of priority order number 136. Below this ranking, a district would be ineligible to enter the ELPP program.

Eric Bode asked if the list was the same as last year. Mr. Chovan responded that was correct. We have reached out to 35 additional districts beyond the priority list. What we will be recommending is to come back and add to the priority list after this next cycle. This is the first time that would have been done.

Acting Chair Blair asked if the school board and all the staff of the ones just below the cut off list are met with and does everybody in the community know where they are on these lists. Mr. Chovan responded that OFCC does not send a formal communication to tell school districts if they are not eligible. Ms. Drerup added that each fall, we outreach to each of the school districts that are on the priority order of funding list and make them aware of what programs they are eligible for at that time. The planners meet with each of those school districts that are interested in pursuing a project. Mr. Chovan added that the school districts that are beyond that limit are not in our planning cycle yet and so there is no direct contact necessarily with those beyond the eligibility list.

Mr. Bode moved to approve Resolution 13-27.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Vocational Facilities Assistance Expedited Local Partnership Program (VFAP/ELPP) Eligibility - *Resolution 13-28*

Mr. Chovan presented the changes to the eligibility requirements for the Commission's Vocational Facilities Assistance Program for Commission approval. The VFAP ELPP Program allows vocational school districts the opportunity to move forward with facility improvements prior to their participation in VFAP. Once a district enters VFAP, it receives credit against its required local contribution for work completed under VFAP ELPP. By law, a district must be over two years away from participation in CFAP to be eligible to enter VFAP ELPP. Based on our assessment of districts that would likely be eligible for VFAP within two year, we have

established the cutoff at priority order number 9 on the list for the vocational school districts. Below this ranking, a district would be ineligible to enter the VFAP ELPP Program.

Mr. Bode said that it is not surprising that we did not move further on the list as there were no VFAP projects approved this year, but is that because none want to move forward. Mr. Chovan responded that one district was interested and then withdrew. We still are constrained to one district per year, according to law, on the vocational side and so that one district was not interested. Eric Bode asked if we were not putting them into the future, in that status, that they can come back. This is just a timing question. Mr. Chovan responded that was correct. They are essentially a deferred vocational district.

Mr. Bode moved to approve Resolution 13-28.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

"Next Ten" List - *Resolution 13-29*

Mr. Chovan presented the "Next Ten" school districts eligible for funding under the Classroom Facilities Assistance Program for Commission approval. This is required by law to identify priority of the next ten school districts for future CFAP funding, in order from lowest to highest in ranking, for districts that have not yet been conditionally approved for assistance. This list has not changed since last year. The section of Ohio law that requires the annual establishment of the list was eliminated by the recently passed budget bill, HB 59, which will be effective September 29, 2013. This is the final time that the "Next Ten" list will be presented.

"Next 10"	School District	County	Priority Rank
1	Eastern Local SD	Meigs	P-001
2	College Corner Local SD	Preble	P-004
3	Mansfield City SD	Richland	P-005
4	Rolling Hills Local SD	Guernsey	P-006
5	La Brae Local SD	Trumbull	P-007
6	Crestview Local SD	Columbiana	P-009
7	East Clinton Local SD	Clinton	P-011
8	Preble-Shawnee Local SD	Preble	P-012
9	Massillon City SD	Stark	P-014
10	West Holmes LSD	Holmes	P-017

Mr. Bode moved to approve Resolution 13-29.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Fiscal Year 2014 Project Agreements Approval - David Chovan - *Resolution 13-30*

Mr. Chovan presented the Project Agreement Templates for Fiscal Year 2014 for the Classroom Facilities Assistance Program (CFAP), Classroom Facilities Assistance Program (CFAP) Segmenting, Exceptional Needs Program (ENP) and Vocational Facilities Assistance Program (VFAP) for Commission approval.

All OSFC programs require the Commission and the school district to enter into a project agreement once funding has been approved by the Commission and Controlling Board. The project agreement defines the scope of the project, the project budget, and other requirements. Each completed project agreement must be approved by the Commission and the local school board. This resolution approves the standard language or template to be used in future project agreements. For FY14 three changes were recommended to reflect recent law changes and to improve the agreement:

1. Increase the required number of years from 3 to 5 for districts to report utility consumption data for each building after occupancy. This provides more data to help us evaluate the efficiency of building mechanical systems prescribed by the design manual.
2. Requires school districts to track project contracts and expenditures in the OAKS Capital Improvements application to comply with recent law change and give us a more integrated solution to tracking project data.
3. Requires districts to submit a monthly report that reconciles the district's project financial accounts with those of the commission by providing better accountability of usage of state funds.

This language will be included in all future project agreements associated with any Commission program.

Acting Chair Blair asked if Mr. Chovan had any comments on OAKS-CI usage for schools. Mr. Chovan responded that we have three districts that are using the OAKS-CI module. We are still in the build out process for statewide implementation. We have some contractors using OAKS-CI that have used the application before on the state agency/university sides. The one thing on state agency projects is they are using it over and over for projects. On the school district side, it is a little more challenging because for the most part it is a onetime usage. We are doing on-site training with them to show them that it is a benefit to them to have all their data in one place where not just the school district, but the State, can both view the same data. It gives us lot more visibility. I think the jury is still out, but I do not see that it is really any different than them using what our current applications that we have used for a K-12 program in the past. Acting Chair Blair added that Senator Widener had questioned him extensively on this at times from Committee and was a real proponent of allowing this enterprise wide tool to be used universally, so that is one of the reasons why he asked the question.

Mr. Bode moved to approve Resolution 13-30.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Security Grant Program Guidelines Approval - Presented by Jeff Westhoven
Resolution 13-31

Jeff Westhoven presented the Security Grant Program Guidelines for Commission approval. The most recent budget bill reallocated $12 million of capital funds to enhance security in schools. This program is available to all public schools and specifically for emergency communications and building access. The maximum allowed is $2,000 per eligible school building for an emergency communication system per school, which could be the MARCS system or another system compatible with local law enforcement, and $5,000 for entrance security per school. School districts will apply for these grants. The grants are not competitive, but would be prioritized. The superintendent or the treasurer would be notified by a letter with a secure link to an on-line web application. Eligible districts would be city, exempted villages, local schools, community schools and joint vocational schools. Eligible building has two different definitions depending on whether it is the radio system communication system or whether it is the school security entrance. For the radio system the building would be used primarily for K-12 instruction; a physical building or physically-connected group of buildings, with a student body headed by an administrator dedicated to that group of students, identified by an Information Retrieval Number (IRN) and the proposed emergency communications system is compatible with those used by law enforcement agencies with jurisdiction over the school territory. For the entrance security the same type of schools are eligible. Eligible buildings are used primarily for K-12 instruction; a physical building or physically-connected group of buildings, with a student body headed by an administrator dedicated to that group of students, identified by an Information Retrieval Number (IRN); owned by the district or school; secured entrance and associated systems not constructed or renovated to design standards contained in OSFC Design Manual version 2009 or later; entrance security system under consideration installed on or after January 1, 2013; proposed security system at one entrance of the building includes improvements in one or more of the following areas: door, security camera, intercom or remote access and proposed improvements to building meet current Ohio Building Code.

What happens if there is more demand than there is money. The concept is that there are two priorities of potential grantees: Priority One and Priority Two. Our intent is to approve as many of these as we can. We believe that is the legislative intent to make this simple and to provide these funds to the schools. Priority One is simply defined as everything that is not Priority Two. Priority Two is proposed improvements to an entrance other than the building's main entrance; eligible buildings that already have a robust main entrance security system, for which the proposed project would be an additional enhancement or upgrade and buildings scheduled for renovation or replacement in a funded master plan.

The bill is effective September 29, 2013. The application process would consist of an online application which the district would fill out on behalf of the schools in its district. Grants would be accepted in the order they are received. We would ask questions if needed and then eventually accept or reject the application. For the communication systems, that would continue until the final deadline of April 15, 2015. For the school security entrance grants, we would have an application deadline of March 15, 2014. We want to give everybody time to submit their grant applications, but then we want to take time to decide whether there is enough money left and whether we can fund the Priority Two requests. If there is enough money through all the Priority Ones, then we begin to fund the Priority Two requests. We would do another round of grant applications in the fall.

If a school is approved for the emergency communication systems and wants to go with the MARCS (Multi Agency Radio Communications System) system we would be able to directly fund that without the school having to buy the radio. For everything else, after the grant is approved, then the school would provide evidence of reimbursement through receipts or before and after pictures (whatever they would use to show the improvements), and then we would reimburse them.

We will coordinate with the Auditor of State to include security grants in the list of items eligible for annual audit at the district level. For locations in which OFCC project administrators and managers conduct site visits for other OSFC projects, spot-check to verify the grant projects. Reports will be made available on information that is expected to be most frequently requested or needed.

Representative Ramos thanked Mr. Westhoven for his presentation and asked if there would be enough money for Priority One requests. Mr. Westhoven responded that we estimated 3,500 buildings might apply for the radios. We have speculated there will be enough money, but Round One will tell us that. Representative Ramos then asked if there was any process for reprioritization. Mr. Westhoven responded that prioritization is by the guideline. If there were any substantive or legislative changes it would come back to the Commission.

Senator Manning asked if the grant application was very cumbersome. Mr. Westhoven responded that we hope for it to be as simple as possible. The online application asks for basic information at the district level, basic contact information for the school level, but as far as the questions whether something is eligible for the radios it is very simple. Is it a K-12 building, is it an eligible building and do you already have a system. On the school security side there are really four questions: what do you have now and what would you propose to change physically to the building; procedurally how do you handle visitors now and if you made this improvement then how would it change after.

Eric Bode asked if STEM schools were eligible. Mr. Westhoven responded that he would have to get that information for Mr. Bode. Mr. Bode also asked were there any kind of parameters for any of the possible uses of the money. Mr. Westhoven responded the law is silent on that. We would propose that it has to be consistent with the Ohio Building Code and we would recommend that it be consistent with the OSFC Design Manual. Some of these improvements may have already happened after January 1st and so to be consistent we would approve all those that are consistent with building code and for those that have not made improvements yet, we would recommend that they follow the design manual. Mr. Bode was concerned about the idea of prioritizing based on when the application is received. Mr. Westhoven responded that we would begin to process the applications in the order received, but not necessarily approve them in the order received. In some cases the applications may have additional questions, which we would need to clarify with the district and so the queue is important just on the front end, but it is really as soon as everything is complete, that is when it would get approved. One of the reasons for having rounds is that we expect to be able to close it early before the funds would run out so that we have that checkpoint to see whether the program is designed correctly, whether it is meeting the needs, were there any tweaks in terms of the guidelines and so it is not necessarily first come first serve, it is first come, first starting on the process. Mr. Westhoven also pointed

out that a district may submit for multiple schools and it could be that later on they come to find that there is an additional school that they would like to add, so we would propose to have initial application and that would go its own way and then a district could amend it and modify it and come in later for an additional school. That would be handled as a separate application so if they were concerned about getting it in on time, they could certainly submit everything that they thought was ready early and then the more questionable ones could come later. Mr. Bode asked about the timing of this. It sounds like you are anticipating potentially revising this for our next Commission meeting and/or approving it today. He just wanted to ask the question from a technical standpoint since it is not law yet, is it ok for the Commission to approve today and then are there any practical considerations that it would be better for us to approve today rather than think about this and then look to the next Commission meeting to approve it. Mr. Westhoven responded since the effective date of the legislation would be before our next meeting, by approving this today we could start processing applications on the effective date. We have had a lot of interest and a lot of questions from schools already and so our preference would be to approve these as they are and come back in October with updated guidelines if needed.

Acting Chair Blair added that this has been a project that he has worked on from a communications standpoint. This has generated an enormous amount of interest around the state. We have had calls from California and several other states because school safety events in the last year are on everyone's mind and anything that we can do to make these schools safer is huge. We have talked to school board associations and also talked to a number of other groups around the state and this is generating an enormous amount of interest and it is a minimal amount of money compared to what we have been putting into these things to help school safety. Acting Chair Blair commended Mr. Westhoven and the OFCC staff for putting together these guidelines.

Acting Chair Blair moved to approve Resolution 13-31.
Mr. Bode seconded the motion.
Approval: Vote 2-0.

Settlement Agreement Approval - Presented by Jon Walden - *Resolution 13-32*

Jon Walden presented a settlement agreement with Knoch on the Akron Public School District project for Commission approval. The Akron Public School District contracted with the Knoch Corporation for general trades work at the Findley Early Learning Center. The contractor submitted claims for alleged additional work, delays and disruptions on the project totaling $150,000 in the case captioned *The Knoch Corporation v. The Ohio School Facilities Commission*, Court of Claims, Case No. 2012-03956. The school district and the Commission had raised issues with the contractor and issued a deduct change order to the contractor for impacts caused to other contractors. The contractor, the school district, and the Commission have agreed to settle any disputes between them, with the school district and the Commission agreeing to pay Knoch $63,519.71. The contractor has agreed to release all claims against the co-owners and the co-owners have agreed to partially release claims against the contractor.

Mr. Bode moved to approve Resolution 13-32.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Settlement Agreement Approval - Presented by Jon Walden - *Resolution 13-33*

Jon Walden presented a settlement agreement with Knoch on the Akron Public School District project for Commission approval. The Akron Public School District contracted with the Knoch Corporation for general trades work at the Schumacher Early Learning Center. The contractor submitted claims for alleged additional work, delays and disruptions on the project totaling approximately $205,000 in the case captioned *The Knoch Corporation v. The Ohio School Facilities Commission*, Court of Claims, Case No. 2012-03964. The contractor, the school district, and the Commission have agreed to settle any disputes between them, with the school district and the Commission agreeing to pay Knoch $41,480.29. The contractor has agreed to release all claims against the co-owners and the co-owners have agreed to partially release claims against the contractor.

Mr. Bode moved to approve Resolution 13-33.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Settlement Agreement Approval - Presented by Jon Walden - *Resolution 13-34*

Jon Walden presented a settlement agreement with Standard Plumbing and Heating, Adena Corporation and Spring Electric on the Crestline Exempted Village School District project for Commission approval. The Crestline Exempted School District contracted with the Adena Corporation for general trades work, Standard Plumbing and Heating Company for the plumbing and HVAC work, and Spring Electric for the electric work at the Crestline Exempted Village School District's new PK-12 building project. The project encountered delays in execution of the work and the contractors submitted claims totaling in excess of $2 million, consisting of a claim by Adena totaling approximately $800,000, a claim by Standard totaling approximately $940,000, and a claim by Spring totaling approximately $400,000. The school district and the Commission have raised issues with the contractors asserting that the contractors either contributed to the delays or caused their own inefficiencies and withheld remaining contract balances for the contractors. The contractors, the school district, and the Commission have agreed to settle any disputes between them with the school district and the Commission agreeing to pay Adena $200,000 and release its withheld contract funds; to pay Standard $400,000 and release its withheld contract funds; and to release Spring's withheld contract funds. The contractors have agreed to release all claims against the co-owners and the co-owners have agreed to partially release claims against the Contractors.

Mr. Bode moved to approve Resolution 13-34.
Acting Chair Blair seconded the motion.
Approval: Vote 2-0.

Minutes note that Chairman Keen arrived at 2:35 PM.

Settlement Agreement Approval - Presented by Jon Walden - *Resolution 13-35*

Jon Walden presented a settlement agreement with Ingle Barr Inc. on the Scioto Valley Local School District project for Commission approval. Mr. Walden provided background on the litigation. This resolution results after years of litigation that started with Ingle-Barr suing OSFC on August 22, 2005 in the Court of Claims. The Court of Claims case was stayed after Ingle-Barr also filed suit against the School District in Pike County. Typically, a school district sued directly will bring in OSFC to remove the case to the Court of Claims and allow the Attorney General's Office to take the lead in litigation, but here the School District chose to continue its local litigation. The litigation involved Ingle-Barr's objection to the OSFC and the School District setting off its payment of a settlement agreement by an overpayment amount. The disputed settlement agreement would have resulted in OSFC and the School District paying Ingle Barr $285,000 to resolve claims for additional work. The School District withheld $102,000 from that amount to account for an overpayment to Ingle-Barr from an earlier billing. Ingle-Barr refused to cash that check and initiated litigation. After resolution of all of the procedural disputes and dismissal of the direct action against the School District, OSFC and Ingle-Barr agreed to settle the litigation for $100,000. The Attorney General's Office and Commission staff recommended the settlement, but Ingle-Barr objected to the settlement and its participation.

The Commission then allowed Mr. Don Gregory, counsel for the School District, to express the School District's concerns with the settlement. Mr. Gregory indicated that the District was concerned about having to expend so much of its own funds on defending the claim and suggested that since the litigation produced good precedent for the State that OSFC should consider some other equitable resolution if it could not reimburse legal fees. Mr. Gregory also indicated that the District was concerned not only about paying the settlement but the release of back charges. Mr. Gregory's written testimony is attached to the minutes.

Acting Chair Blair thanked Mr. Gregory for his testimony and moved to go into executive session to discuss litigation. Mr. Bode seconded the motion. Acting Chair Blair asked the roll to be called. The motion to go into executive session was approved 3-0. The Commission returned to open session and Chairman Keen presided over the remainder of the meeting. Vice Chair Blair moved to adopt Resolution 13-35. Chairman Keen asked Mr. Gregory if he had requested the Commission to reject the settlement agreement. Mr. Gregory responded yes. Chairman Keen asked Mr. Gregory to outline a course of action that he foresaw that would be more advantageous to the school district that presumably motivates such a request. Mr. Gregory responded the fact that it would be tried on the merits and presumably the same result would be achieved that was achieved in six years in litigation at State court, which is to win. This school district knows the risk and thinks they are better off having it be tried than having it settled. Chairman Keen pointed out that according to our attorneys there is significant uncertainty about the potential outcome of a case that would be filed outside of this settlement agreement. It has been recommended to us that this settlement is the most appropriate way to resolve this matter for all the parties involved.

Vice Chair Blair moved to approve Resolution 13-35.
Mr. Bode seconded the motion.
Approval: Vote 3-0.

Delegation of Authority Approval – Jon Walden – *Resolution 13-22*

Jon Walden presented a delegation of authority approval of project agreement amendments, which do not increase master plan costs for Commission approval. This was discussed at the April 13, 2012 Commission meeting and was tabled at that meeting. Based on comments received at the last meeting along with additional discussion that Commission staff had with Mr. Bode, we bring the revised resolution that would authorize authority for the executive director to approve project amendments to master facilities plans with the following conditions: facilities plans with reductions of project scope and/or budget due solely to the elimination of a building demolition or bid savings; zero dollar changes in project budget not involving a scope change; ELPP project discrete portions that are still within the overall master facility plan approved; and reconciliations of an ELPP project close out that do not result in a co-funded project budget increase. The Commission staff believes this provides the Commission a more efficient method of administering and approving project budget scope amendments that do not increase the project cost to the State.

Mr. Bode expressed thanks to Mr. Hickman and the staff for working with him on this. He felt what we ended up here is a good streamlining of the process and yet still retains with the Commission things that we should vote on. He appreciated the chance to improve this.

Mr. Bode moved to approve Resolution 13-22.
Vice Chair Blair seconded the motion.
Approval: Vote 3-0.

Executive Director's Report

Director Hickman presented the groundbreaking and dedication report. OSFC staff attended a total of 6 groundbreaking ceremonies (Kenton CSD, Northmont CSD and 4 at South-Western CSD) and 2 dedication ceremonies (Columbus CSD and Cincinnati PSD). He also reported on the close out report for the second quarter of 2013 for 8 districts: Antwerp LSD, Bethel-Tate LSD, Genoa Area LSD, Leetonia EVSD, Northmor LSD, North Union LSD, Washington-Nile LSD and Warren CSD.

Director Hickman asked Jeff Westhoven to report on the approved HB264 projects since the last meeting. Mr. Westhoven reported that of the 5 HB264s, there was 1 (Benton-Carroll-Salem LSD) that had guaranteed savings currently being provided by the energy service companies.

School District	Cost	Payback Period
Benton-Carroll-Salem LSD	$679,763	13.65 Years
Gahanna-Jefferson PSD	$5,164,175	14.99 Years
Portage Lakes JVSD	1,100,495	14.84 Years
Shawnee LSD	$1,438,585	12.67 Years
South Central LSD	$371,277	10.23 years

irector Hickman provided a summary report on design, construction or other contracts approved, awarded or amended by the Ohio Facilities Construction Commission:

6 design agreements, 3 design agreements co-funded amendments and 2 LFI design agreements totaling $6,272,996
2 CMA agreements; 2 CMA amendments co-funded; 4 LFI CMA agreements totaling $2,031,835
1 Owner Agent Amendment totaling $78,728
3 CMR agreements; 1 CMR amendment co-funded totaling $41,984,129
2 DB agreements for Remediations totaling $143,080
2 Specialty agreement amendments; one for auditing and one Design manual totaling $91,000
65 Trade Contracts totaling $85,443,866; 4 to 2nd low; 13 QSCB's; 1 PLA

Public Testimony

Scioto Valley Local School District Superintendent Todd Burkitt presented public testimony related to the proposed Ingle-Barr settlement and the School District's concerns about needs for additional construction/funding to fully complete the project consistent with school district needs and to address what the District believes were failed promises and assurances from OSFC/OFCC. The Superintendent raised concerns about its disparate treatment in relation to another school from Pike County. Superintendent Burkitt's written testimony is attached to the minutes.

Chairman Keen questioned if the concerns were related to the litigation, and the Superintendent that they were partially. Superintendent Burkett further indicated that Scioto Valley was just looking to be made whole. Director Hickman then provided further clarification of the facts surrounding the District and requested item and Superintendent Burkett then provided an additional response raising concerns about disparate treatment. Chairman Keen concluded by thanking the Superintendent for his attendance and asked if Commission members had any further questions. With no further questions, public testimony concluded.

The meeting was adjourned at 3:45 PM.

Timothy S. Keen, Commission Chair

Carolyn L. McClure

These meeting minutes were prepared by
Carolyn L. McClure, Secretary to the Commission